

**Tribal Infrastructure Task Force Meeting Summary**  
**March 21, 2012 2:00-3:30 PM**

**A. Introductions**

Dana Baer	Indian Health Service (IHS) Sanitation Facilities Construction (SFC) Program
Jennifer Bullough	U.S. Department of Housing and Urban Development (HUD) Office of Native American Programs
Deirdre Remley	U.S. Department of Agriculture (USDA) Rural Utilities Service
Marta Burg	U.S. Environmental Protection Agency (EPA) Region 9 Tribal Caucus
Dave Clark	Rural Communities Assistance Partnership (RCAP)
Lorrie Davis	USDA, Rural Development
Mindy Eisenberg	EPA, OGWDW
Sheila Frace	EPA Office of Wastewater Management (OWM)
Greg Gwaltney	EPA OWM
David Harvey	EPA Office of Ground Water and Drinking Water (OGWDW)
Ron Hoffman	Association of Village Council Presidents (AVCP), Bethel AK
Kellie Kubena	EPA OWM
Shaun Livermore	Poarch Band of Creek Indians Utility Authority
Ken Norton	National Tribal Water Council
Jon Melhus	USDA
Stephen Poloncsik	EPA Region 5
Jacki Ponti-Lazaruk	USDA, Rural Development, Utilities Program
Nate Rawding	Horsley Witten Group, Inc.
Linda Reeves	EPA Region 9
Matt Richardson	EPA OWM
Ben Shuman	USDA Rural Development, Water Program
Kelly Titensor	U.S. Department of the Interior (DOI), Bureau of Reclamation
Dennis Wagner	EPA Region 10
John Wheaton	Nez Perce Tribe (NPT), Idaho
Mellor Willie	National American Indian Housing Council
Michaelle Wilson	EPA Office of Resource Conservation and Recovery (ORCR)
Aneva Yazzie	Navajo Housing Authority

**B. Welcome, Introductions, and Review of ITF Road Map (Matt Richardson, EPA)**

The agenda and attachments for the meeting today were previously sent by Matt Richardson. The ITF meetings over the past six months included listening sessions with Tribal water utilities which are summarized in a two-page “Commonalities” document. The Commonalities document is still in a draft format, and comments should be sent to Matt. The document will be posted online shortly. The Commonalities document will likely help the federal agencies to incorporate new ideas into future strategic plans.

## C. Current ITF Activities & Updates

### *a) Update on a Common Project Engineering Report among the Agencies (Ben Shuman USDA)*

Ben Shuman reported on the status of a new ITF workgroup charged with consolidating the preliminary engineering report process, into one common format for the EPA, IHS, and USDS to use with Tribes. Ben is working with David Harvey (EPA) and Dana Baer (IHS). USDA has four guidance documents on preliminary engineering reports, which creates a challenge to consolidate these with documents from other agencies. After a final draft is complete, David Harvey and Dana Baer will review the document. Initially, the workgroup was going to use GoogleDocs, but USDA internet policies do not allow use of the program. Ben is exploring the use of document sharing software being used on a similar project he is working on with the Small Communities Water Infrastructure Exchange. However, since this ITF workgroup is small, email will be used to coordinate work and share documents in the meantime.

USDA field engineers have identified recommended changes to USDA's four guidance documents. The next step is to review the guidance documents from the other federal agencies to create a new draft document. A common project engineering report should be available to the ITF steering committee by the end of the summer.

Jacki Ponti-Lazaruk: The purpose of this project is to make sure that the federal partners are working together and coordinating at the national level. Having a common project engineering report will also create consistency for applicants.

### *b) Collection of Tribal Operation and Maintenance Utility Data (Jon Melhus, USDA)*

The Tribal Operation and Maintenance (O&M) Utility Data workgroup is collecting data on Tribal water/wastewater utility O&M to better estimate what systems cost to run. Currently, the workgroup is developing a common set of terms and classifications to allow for comparisons across different data sources. The workgroup consists of two members from the National Rural Water Association, as well as David Harvey (EPA), Matt Richardson (EPA), and Dana Baer (IHS). The workgroup is looking for additional members. Specifically, the workgroup would like a member from a Tribal utility and a representative from the Rural Communities Assistance Partnership (RCAP). Participants who are interested in joining the workgroup, or know of someone who may be interested should contact Jon Melhus.

### *c) New Sustainable Infrastructure Initiative from EPA's Advisory Board (Sheila Frace, EPA)*

EPA, under the Federal Advisory Committee Act, has a variety of standing advisory committees that provide advice on scientific, technical, and financial issues. One standing committee is the Environmental Finance Advisory Board (EFAB), which provides EPA with advice and recommendations on financial tools available to help with environmental protection. This committee is recently formed a small subcommittee to work on identifying and evaluating comprehensive strategies that promote financial sustainability of drinking water, wastewater, and solid waste facilities in Indian Country. It has recently accepted this charge, and the schedule for its preliminary draft report to the Environmental Finance Advisory Board is unknown at this

time. The timeframe for this type of report could be less than a year, but it could also take up to several years. Sheila will keep the ITF updated on the progress of this committee and will aim to invite representatives to present the findings at a future ITF meeting.

*Does the subcommittee have Tribal representation?*

The subcommittee is formed from the Tribal and Environmental Programs EFAB workgroup. It is not clear if the subcommittee will be a subset of that group. The Tribal and Environmental Workgroup does have Tribal members and one of the co-chairs is from the Torres Martinez Desert Cahuilla Tribe.

*d) Proposal to Finalize Commonalities Document (Matthew Richardson, EPA)*

Matt Richardson asked that people submit their comments on the Commonalities document over the next seven days. It will then be posted online. Any comments on the document can be sent to Matt by email or over the phone.

**D. Summary of Feedback from EPA Region 9 Tribal Meeting about ITF Proposed Approach (Marta Burg, Attorney Tribal Consultant)**

During the last ITF meeting, a proposal was made to provide a Tribal training session or series, using the information from listening sessions and contained in the Commonalities document. During the last Region 9 Regional Tribal Operations Committee (RTOC) meeting in early February, Marta shared the training idea with the entire Tribal caucus of about 50-75 Tribal representatives, including several Tribal leaders. Marta also shared the idea during a breakout session with several leaders. Linda Reeves also attended the breakout session.

The greatest consensus from the Tribal representatives was that trainings, while beneficial, might not be the best first step for the ITF to take. Marta shared the following comments and suggestions from Tribal representatives and leaders.

- Some Tribal leaders may be more interested in hearing from people within their organizations rather than governmental employees.
- It might be more useful to have circuit riders who have existing relationships with Tribes conduct the trainings instead of government employees who may not have an existing relationship.
- Because of the variations among Tribes, the trainings may not be tailored enough to a specific Tribe's issues or structures for it to be helpful.
- Outreach to utility staff was suggested (i.e., "train the trainer").
- It is unclear how this particular training would show measurable improvements in sustainability.

- Marta Burg stated that Tribes are concerned that the Commonalities document was developed based on a very small number of Tribes that may not be representative of all Tribes. Tribes expressed concern that following their review of EPA's new draft document: "Guidebook for Building Tribal Environmental Capacity." This document was developed following an Office of Inspector General audit that took place several years ago and was based on a small number of Tribes (i.e., less than 10 or 15% of Tribes that receive General Assistance Program grants). Marta suggested that the number of Tribal utilities used to develop the Commonalities document may not be large enough to assess the challenges for all Tribal utilities. Information from additional Tribes may be helpful before commonalities are identified and actions are taken based on these commonalities.
- The original document that the ITF Access subgroup developed in 2008 had a component related to sustainability of O&M, and the follow-up to that document is unclear. Marta shared a portion of the document with Matt, and it has been shared with the ITF members by email to determine if other items should precede a training program or could be undertaken concurrently.
- In the 2008 subgroup report, one of the recommendations was to engage in a more comprehensive study of barriers to sustainability, including the true cost of operating and maintaining a utility. According to Marta, it appears that this recommendation was not followed.

Linda Reeves: The Tribes at the Region 9 RTOC meeting were supportive of the focus on sustainability and the ITF's work.

Jacki Ponti-Lazaruk: Jacki is pleased to hear support for "train the trainer" trainings, or trainings by circuit riders. The utility O&M research study is important and the workgroup should ensure that there is enough representation in that study. Based on the excerpt from the Access subgroup, and Tribal representatives in Region 9, there appears to be insufficient input from Tribes across the country. Jacki asked participants for suggestions on an appropriate number of tribal participants in an ITF sub-workgroup.

Marta Burg: The first step is to understand what O&M data already currently exist, and the data sources available. Federal agencies and circuit riders may have useful information. Information has been used to support physical infrastructure projects, but there has been a lack of data for the sustainability of the system. Marta offered to collect additional feedback on the appropriate composition and size of O&M study from Tribes during the next Region 9 RTOC meeting.

Jacki Ponti-Lazaruk: There are time and financial constraints associated with conducting Tribal interviews.

*How is the workgroup approaching the O&M costs study?*

Jon Melhus: It would be interesting to understand what data sets people are referring to, because there may be some that Jon is not aware of. The workgroup will work with IHS, EPA, and

USDA to collect the information they have. The workgroup will modify the USDA database, because USDA can require borrowers to provide certain information as part of its loan program. Currently, the information available in the USDA database is very general, and the workgroup will begin breaking information down into more specific terms and categories.

Jacki Ponti-Lazaruk: One concern with using data from federal sources is that it only provides information about the borrowers and grant recipients, but may not provide information about other non-recipient Tribes that may be struggling with O&M.

Does IHS keep a large database on O&M costs?

Dana Baer replied that IHS does not have a database on O&M costs.

Jon Melhus: There is potential to gather information from non-Tribal projects located in the same geographic area as Tribal projects.

Would there be opposition to pursuing both the O&M study and the trainings at the same time?

Marta Burg: There would not be opposition per se, but Tribal representatives do not want redundant trainings. In addition, Tribes want to be able to demonstrate an improvement in their utility operations. A more regional training using a circuit rider or “train the trainer” approach may provide a set of materials more sensitive to a community’s needs.

Linda Reeves: Tribes have also expressed interest in having other utility leaders participate in trainings to obtain information on good government practices. Trainings should be opened to all Tribal members who want to participate, so they can work internally with their Tribe to create changes.

Jacki Ponti-Lazaruk: It would take time to create the trainings materials, so the O&M study could take place at the same time. EPA and USDA are currently providing Rural Sustainability workshops, which include a listening session to ensure that small communities can voice their challenges.

Kellie Kubena: EPA/USDA held a Rural Sustainability workshop last week in Michigan, and the next two are in Santa Cruz, California (May 6<sup>th</sup>) and Lowell, Massachusetts (May 3<sup>rd</sup>). EPA and USDA are inviting utilities to get a good cross section of utility size and process. At least one Tribal utility representative attended the Michigan workshop. Kellie asked ITF members to reach out to any Tribal representatives that may be able to attend the trainings in California or Massachusetts. The workshops include a variety of different systems, including onsite systems.

Jacki Ponti-Lazaruk: It has taken months to develop the training materials for the Rural Sustainability workshops. If the ITF wants to put together materials, it could work through the circuit riders, or the RCAP, and use more of a collaborative process to develop the materials for the “train the trainer” envisioned for Tribes.

Marta Burg: The California Rural Community Assistance Corporation (RCAC) has a very good working relationship with many of the Tribes in the California/EPA Region 9 area.

Linda Reeves: Technical assistance providers for Region 9 include the Inner Tribal Council of Arizona, and Rural Water in Nevada.

Marta Burg: Tribal representatives on the ITF meeting call may have ideas about other technical assistance providers or organizations that they could suggest as this program is developed.

Jacki Ponti-Lazaruk: The ability to develop training materials will be driven by the availability of funds and the budget cycle. While the group may agree that the trainings are necessary, budget limitations may postpone the development of the materials until next year.

Marta Burg: Tribal governments are also experiencing similar budget challenges, and funding to support Tribes to travel and participate in training/education programs may be less than it used to be in previous years.

Jacki Ponti-Lazaruk: The “train the trainer” is a good format that would benefit from using locally based materials. The ITF can develop a package of information that is appropriate for the audience, and a circuit rider can go to the Tribe to provide the training. This may be most cost effective approach.

Marta Burg: Trainings based on real information will be more useful to utilities, so it is important to finish collecting data before the training materials are finalized. Some of the data from the O&M study may add to the trainings.

Jacki Ponti-Lazaruk: The development of the training materials and the O&M study could take place concurrently. There would be time to integrate the information from the study into the trainings before they are started.

Kellie Kubena: Regarding the ability of Tribal utility staff to educate their own Tribal governments, some participants at the Michigan workshop reported frustration from utilities being unable to get their opinions across to local government leaders. They felt that outside parties were often perceived as having more credibility by the local government leaders.

Marta Burg: There is a range of communities and in some communities; utility employees may be frustrated by their local government leaders. Often, communities with poor relationships tend to be the ones who complain the most. It is less likely that communities with good relationships with their governing bodies will report on those relationships. This makes it difficult to identify the true extent of the problem. The relationships between utilities and local governments are somewhere in the middle.

Matt Richardson: It sounds like additional research is needed on this topic before a package of materials for a “train the trainer” session can be developed.

Sheila Frace: Instead of waiting to put the training materials together, there is agreement that the training materials and the study could be undertaken concurrently, and the results of the study could be used to finalize the training materials.

Ken Norton agreed that training materials and the O&M study can take place concurrently.

Shaun Livermore: The focus on the train-the-trainer program looks like the right approach.

Dave Clark: Following some discussions about providing technical assistance or training for Tribes, there were two general suggestions: 1) The need to meet with Tribes when they are already regularly going to have one of their meetings, and 2) The need to contact them regularly. It is important to develop a relationship with Tribes. It may be necessary to call the Tribe several times before a meeting. People should try as hard as possible to meet with them when they are already having a meeting. This should be done for all groups, but it may be more important for community groups.

Jacki Ponti-Lazaruk: It is possible to leverage already existing conferences where Tribes might already be traveling.

Marta Burg: In Region 9, there is an annual Tribal EPA conference hosted in San Francisco or at a location in Indian Country. This has been going for 15 to 20 years and similar events may be taking place in other regions. Would it be useful to get input from Tribal representatives at the next RTOC meeting in May on the focus of the O&M study and size?

Jon Melhus agreed to discuss the upcoming May RTOC meeting with Marta, and obtain additional information from Tribes on the O&M study.

Marta Burg offered to participate in the Tribal O&M Utility study workgroup.

## **E. Discussion and Identification of Future ITF Activities (All)**

Sheila reiterated some ongoing items. The ability of federal agencies to take on new work and activities is influenced by resources, people, and funding for contractors or grantees. There are two new efforts that the ITF is undertaking: the O&M Study, and the Common Project Engineering Report.

There have been several efforts completed by earlier ITF groups, including identifying technical service providers in different parts of the country, and working with the grantees to create a repository of information to allow the coordination among service providers. The ITF has also conducted work relative to the differences between how federal agencies implement the National Environmental Policy Act (NEPA) for Tribal projects.

There is a concept for developing train-the-trainer materials, but there is no specific funding for the work or a task group. It makes sense to get through the next small community session to gather additional feedback before taking the next steps.

After noting potential budget challenges, Sheila asked members to discuss two areas: 1) Are there efforts outside of the federal agencies that the ITF could leverage? 2) Is there something that the ITF has not looked at (i.e., low hanging fruit)?

Jacki Ponti-Lazaruk: The federal agencies will continue to fund projects to improve access. USDA received a smaller set-aside than last year, EPA has funding, and HUD continues to fund projects. It is important for people to be aware of this, but there are no obvious low hanging fruit.

Jennifer Bullough: At the HUD Office of Native American Programs (ONAP) meeting with principal staff, the Administrator Carolyn O'Neil from the southwest office mentioned a Tribal interagency group that meets quarterly. Infrastructure is part of that group's work.

Linda Reeves: The group that Carolyn O'Neil was referring to is the Multi-Agency-Tribal-Infrastructure-Collaborative (MATIC). MATIC has monthly conference calls, with the various agencies. The group is state-specific, and Allen Stevens, the state director at USDA, is part of the group. MATIC coordinates technical assistance and hosts an annual fair for Tribes (a "one-stop shop" format). It is broader than water infrastructure, and includes housing, small business administration, and the Federal Reserve Bank. This may be an opportunity to get federal agencies together for Tribes.

Jennifer Bullough: MATIC meets quarterly, but may start meeting monthly or bimonthly since their work is being very well received. Some outside non-Tribal organizations are involved, such as Northern Arizona University. It would be good for MATIC to provide an overview presentation at a future ITF meeting.

Marta Burg: Many Tribes participated in the California RTOC session. These meetings help Tribes with access to national level organizations. At these meetings, each Tribal representative can seek out and talk to people from more than one agency or organization about how they can leverage resources.

Jennifer Bullough: The idea of a meeting with all the federal agencies and Tribal organizations is a good one. This would help Tribes understand the different resources available from agencies and who they need to talk with. This type of meeting might be too difficult to conduct on a state by state basis, but could be held on a more regional basis.

Marta Burg: Region 9 had a very active interagency group that mirrored on the work of the ITF, but on a regional level. This interagency group met when there was an RTOC meeting or Tribal conference to allow Tribes to find assistance. Some people in the group could offer advice to Tribes, recommend people to go to, or find a solution among multiple Tribes that was less expensive than working on their own.

Matt Richardson: Are there other ideas of low hanging fruit?

Dennis Wagner: The ITF still needs to define what is sustainable. There are many discussions about "sustainability," but the term has not been defined by EPA or other agencies.



Sheila Frace: The Concepts document identifies management techniques that help reach sustainability. In addition, infrastructure should be sized and designed in a manner that meets the Tribe's needs, but is also consistent with the broader Tribal goals.

Dennis Wagner: Should sustainability be defined solely from a financial standpoint? Is sustainable what a Tribe can afford to spend? If the Tribe is solely relying on user fees, what is a reasonable rate that they should be able to pay? Typically, a percentage of Mean Household Income (MHI) is used to define what people can afford. The ITF has not determined what is financially sustainable for communities.

David Harvey: Affordability is an issue being frequently discussed by EPA. Congress has asked EPA to look at its affordability policy for drinking water rules, and a public webinar will be hosted tomorrow on the issue. David can forward the link for the webinar to anyone who is interested. There will also be a report issued to Congress addressing how affordability is considered in drinking water rules and how it influences operations.

Sheila Frace: Earlier ITF meetings recognized that Tribes may need revenue outside of service fees to achieve the necessary public benefits. In terms of EPA policy, or perspective, everyone deserves the same level of protection. Presentations from Tribes showed different approaches to finding the resources to sustain the infrastructure, such as using general funds in addition to user fees, supplementing revenue by connecting other utilities, such as a gas utility.

Dennis Wagner: Training materials need to provide guidance to Tribes on reasonable rates that users should be expected to pay to achieve sustainability. For drinking water, 3% of the MHI is the level associated with the rule, but it does not cover the overall cost of utility services.

Jacki Ponti-Lazaruk: USDA establishes sustainability financial ratios for the systems that receive funding. The condition for projects to be considered for grant funding is a minimum of 1.5% of MHI. If the Tribe does not meet the 1.5% of MHI, either the rates are increased, or funding is not granted. Some of the states in the past have used 2%. It is difficult for the federal government to determine what a "reasonable" rate is since there are communities that are willing to pay whatever it takes to get clean water or reliable sewer services. One component to sustainability is financial, but there are other aspects such having a knowledgeable operations manager to run plants efficiently, leveraging resources, and customer outreach.

Dennis Wagner: Last year in San Francisco, Sandi had indicated that USDA uses 1.5% MHI for water and 1.5% MHI for sewer, for a total of about 3%.

Jacki Ponti-Lazaruk: USDA uses 1.5% for its grant reserve program, but this is a benchmark and not a requirement through the regulations.

Sheila Frace: The Environmental Finance Advisory Board is charged with identifying comprehensive strategies for financial sustainability for drinking water and wastewater utilities for Tribal communities. This group may provide guidance on what constitutes a sustainable rate. Tribes can consider a range of funding mechanisms beyond only revenues for service. The

Tribes that presented in the recent ITF listening sessions identified other factors important to sustainability including separation from the political process, the ability to charge fees of everyone, the ability to shutoff service, and looking beyond user fees from water and wastewater infrastructure to achieve sustainability.

Shaun Livermore: A properly trained operator will influence the longevity of the equipment and the sustainability of the system. There is insufficient focus on adequate training for operators, which has a large financial impact on the overall sustainability of a system. For example, pumps that only last half their designed life span because they are not properly maintained will require the use of funds that could be going toward lowering rates.

Matt Richardson: Keeping local operators trained is key to sustainability, and a number of organizations can help with training those operators.

Jacki Ponti-Lazaruk: In the Goals and Concepts document, item number 5 is an adept workforce that is trained and certified. Several trainings are available; some with an associated cost, but other trainings are free and funded by federal programs. At USDA a certified operator is required as a condition of funding. Is this an awareness issue?

Shaun Livermore: As a certified operator, it is clear that sustainability is dependent on adequate training. The importance of training should be emphasized in everything that the ITF is working on. This will ensure that the system is adequately maintained so that Tribes are getting the most for their money.

Jacki Ponti-Lazaruk: Beyond the available training, what else could federal agencies do? How can they encourage better utilization of the available training? The importance of training should be highlighted to utility boards and Tribal councils because this is where decisions regarding training are made.

Shaun Livermore: There should also be an emphasis on the sources of funding for training personnel. The importance of training gets lost when talking to the local government, or Tribal entity.

Jacki Ponti-Lazaruk: Everyone is in an agreement regarding the importance of training for sustainability of a system, and this will be emphasized in the training materials.

## **F. Future Meeting Schedule, Action Item List Review and Next Steps (Matt Richardson)**

The next ITF meeting is on May 16, 2012. In the meantime, any questions should be sent to Matt Richardson. The documents discussed during this meeting will be available online.

Action items from this meeting are listed below.

- The Commonalities Document should be reviewed, and any comments or suggestions sent to Matt Richardson within seven days.

- The workgroup collecting data on O&M costs for Tribal water utilities is looking for additional members, including, a representative from a Tribal utility and a representative from the Rural Community Assistance Program (RCAP). Participants interested in joining the workgroup should contact Jon Melhus.
- Participants should reach out to any Tribal representatives that may be interested in attending the Rural Sustainability workshops in California on May 6<sup>th</sup> or in Massachusetts on May 3<sup>rd</sup>.
- Marta Burg offered to participate in the Tribal O&M Utility study workgroup.
- Marta offered to collect additional feedback on the appropriate composition and size an O&M study from Tribes during the next Region 9 RTOC meeting.